

IN THE INCOME TAX APPELLATE TRIBUNAL
'DB', AMRITSAR BENCH, AMRITSAR

HYBRID HEARING

BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND
HON'BLE SHRI UDAYAN DAS GUPTA, JM

आयकर अपीलसं./ ITA No. 563/ASR/2024
(निर्धारणवर्ष / Assessment Year: 2014-15)

Shri Satish Kumar Jain H No 579 Airport Road Rani Bagh, Jammu-180003	बनाम/ Vs.	ITO Panama Chowk Jammu-180004.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ABLPJ-6598-A		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri K.R. Jain (Advocate) – Ld.AR
प्रत्यर्थीकीओरसे/ Respondentby	:	Sh. Charan Dass (Addl. CIT)– Ld. Sr DR

सुनवाईकीतारीख/ Date of Hearing	:	17-07-2025
घोषणाकीतारीख / Date of Pronouncement	:	07-08-2025

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2014-15 arises out of an order of Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 30-08-2024 confirming penalty levied by Ld. Assessing Officer (AO) u/s 221(1) vide order dated 29-06-2017. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.
2. The assessee was assessed u/s 143(3) on 19-12-2016. The assessee declared income of Rs.9.75 Lacs. The assessee claimed

deduction u/s 80IB. Though the Ld. AO accepted the same, it was observed that the assessee was liable to pay taxes under Alternative Minimum Tax (AMT) u/s 115JC which was not paid. After adding deduction of Rs.72.35 Lacs to the returned income of Rs.9.75 Lacs, book profit was determined at Rs.82.10 Lacs. On this, the AMT liability was computed at Rs.15.18 Lacs along with *education cess*. The total tax liability worked out to be Rs.15.64 Lacs whereas the assessee paid tax of Rs.1.23 Lacs on returned income and accordingly, there was shortfall of payment of tax by Rs.14.40 Lacs. Upon being confronted by Ld. AO, the assessee deposited AMT liability on 24-11-2016 and filed proof of the same. However, Ld. AO initiated penalty u/s 221(1) for non-payment of taxes before due date u/s 139(1). Though the assessee opposed the same, Ld. AO held that there was no reasonable cause for non-payment of taxes and accordingly, he levied impugned penalty of Rs.14.40 Lacs u/s 221(1).

3. During appellate proceedings, the assessee reiterated that AMT liability was not paid since earlier counsel expired and his staff was not aware of the MAT provisions and did not compute MAT liability payment. As soon the discrepancy was pointed out, the assessee discharged the MAT liability forthwith. The penalty was discretionary and MAT liability was paid before order was passed u/s 143(3). On similar facts, Ld. AO dropped similar penalty for AY 2015-16 by relying on the decision of Hon'ble High Court of Madras in the case of **Smt. Vijayanthimala (108 ITR 882)** holding that the default must be willful

and not accidental. However, Ld. CIT(A) confirmed the same against which the assessee is in further appeal before us.

4. From the facts, it emerges that the assessee has filed its return of income at Rs.9.75 Lacs after claiming deduction u/s 80IB for which the assessee was found entitled to. However, the assessee failed to compute AMT liability u/s 115JC in its return of income and accordingly, AMT liability was not discharged. The Ld. AO pointed out the discrepancy during the course of assessment proceedings and brought the same to the notice of the assessee. The assessee discharged the liability forthwith before passing of order u/s 143(3). The reason as adduced by the assessee was that earlier counsel had expired and his staff was not aware of the MAT provisions and did not compute MAT liability payment. As soon the discrepancy was pointed out, the assessee discharged the MAT liability forthwith. In our considered opinion, this explanation is to be accepted as reasonable cause in view of the fact that similar discrepancy occurred in AY 2015-16 which was assessed u/s 143(3) on 05-12-2017. The Ld. AO initiated penalty u/s 221(1) but dropped penalty for this year vide order dated 09-03-2018. For the same, Ld. AO relied on the decision of Hon'ble High Court of Madras in the case of **Smt. Vijayanthimala (108 ITR 882)** which held that the default must be willful and not accidental. The levy of penalty would depend upon particular facts and circumstances of each case which will primarily concern whether the default was willful or mere incidental. We find that similar facts exist in this year and

therefore, following the rule of consistency, we delete the impugned penalty.

5. The appeal stand allowed.

Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-

**(UDAYAN DAS GUPTA)
JUDICIAL MEMBER**

Sd/-

**(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER**

Dated: 07-08-2025.

आदेश की प्रतिलिपि अग्रेषित /Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AMRITSAR